

TOWN OF FREDERICK

RESOLUTION NO. 09-R-__

**A RESOLUTION REGARDING ACKNOWLEDGING TRANSFER OF REAL
PROPERTY INTEREST IN PHASES III AND IV FOR RASPBERRY HILL
SUBDIVISION, AND ASSIGNMENT OF PUBLIC IMPROVEMENT
OBLIGATIONS OF DEVELOPER TO SUCCESSOR.**

WHEREAS, the Board of Trustees of the Town of Frederick, Colorado, on Tuesday, _____, 2009, reviewed the application of Capital Real Estate Services, 301 Congress, Ste. 500, Austin, TX 78701 for transfer of the remaining public improvement obligations at the Raspberry Hill Subdivision, pursuant to Section 14.8 of the Memorandum of Agreement for Public Improvements (MOAPI) entered into by the Town and Melody Homes, Inc.

**BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FREDERICK, COLORADO, AS FOLLOWS:**

Section 1. Findings of Fact.

a. Melody Homes, Inc. d/b/a DR Horton – Melody Series (Horton or Developer) and Town entered into an MOAPI, dated December 17, 2004, (Weld County, Rec. No. 3305758) regarding the installation and maintenance of public improvements for the Subdivision.

b. Horton commenced development of Phases I and II, pursuant to the final plat for the Subdivision, recorded April 14, 2005, and thereafter received partial acceptance and release of the respective improvement obligations and guarantees for Phases I and II, pursuant to the terms of the MOAPI.

c. Horton has sold to Capital Real Estate Services (“CRES”) its remaining interest in Phases III and IV of the Subdivision, and CRES seeks transfer of its remaining obligations under the MOAPI to CRES.

d. Pursuant to Sec. 14.8 of the MOAPI, until Town accepts transfer of the public improvements obligations set forth therein, Horton and any successor are joint and severally liable for performance of such obligations.

e. CRES desires to assume the remaining public improvement obligations for the Subdivision, and to replace the improvement guarantees posted by Horton for Phases III and IV, pursuant to § 1.10 of the MOAPI.

f. The Town, Horton, and CRES agree that the public improvements described in the MOAPI are directly related to and generated by development intended to occur within the

Subdivision and that no taking thereby will occur requiring any compensation.

Section 2. Conclusions and Order Approving Assignment of the MOAPI for the Raspberry Hill Subdivision.

a. That the estimated cost of public improvements for Phases III and IV of Raspberry Hill Subdivision shall be reviewed and adjusted if determined appropriate by the Town of Frederick, pursuant to § 1.10 of the MOAPI, prior to releasing the improvements guarantee posted by DR Horton.

b. The improvement guarantees posted by Horton shall be released by the Town of Frederick only after improvement guarantees acceptable to the Frederick Town Attorney have been provided by CRES and accepted by the Town.

INTRODUCED, READ, PASSED, AND SIGNED THIS ____ DAY OF ____, 2009.

ATTEST:

TOWN OF FREDERICK

By _____
Nanette S. Fornof, Town Clerk

By _____
Eric E. Doering, Mayor

APPENDIX A
RASPBERRY HILLS SUBDIVISION

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 23, TOWNSHIP 2 NORTH, RANGE 68 WEST, OF THE 6TH. P.M., TOWN OF FREDERICK, WELD COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 23, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH P. M. , MONUMENTED AT THE SOUTHWEST CORNER BY A 2.50 INCH ALUMINUM SURVEY MONUMENT IN A RANGE BOX STAMPED PLS 25614 AND AT THE SOUTH $\frac{1}{4}$ CORNER BY A BLM BRASS SURVEY MONUMENT IN A RANGE BOX WITH A LINE BETWEEN CALCULATED TO BEAR S 89 DEGREES 29'22" W WITH ALL BEARINGS HEREIN RELATIVE THERETO:

BEGINNING AT THE SOUTH $\frac{1}{4}$ CORNER OF SAID SECTION 23;
THENCE S 89 DEGREES 29'22" W ALONG THE SOUTH LINE OF SAID SOUTHWEST $\frac{1}{4}$
A DISTANCE OF 1541.90 FEET TO A POINT ON THE WEST LINE OF A WYCO PIPELINE
EASEMENT RECORDED AT BOOK 1199 PAGE FOR 441 OF THE WELD COUNTY
RECORDS;

THENCE ALONG SAID PIPELINE EASEMENT THE FOLLOWING TWO COURSES;

THENCE N 02 DEGREES 17'40" E, A DISTANCE OF 1136.23 FEET;
THENCE N 02 DEGREES 16'21" W, A DISTANCE OF 1516.46 FEET TO A POINT ON THE
NORTH LINE OF SAID SOUTHWEST $\frac{1}{4}$;

THENCE N 89 DEGREES 42'41" E, ALONG THE NORTH LINE OF SAID SOUTHWEST $\frac{1}{4}$
A DISTANCE OF 1526.16 FEET ;
THENCE S 00 DEGREES 39' 27" E, ALONG THE EAST LINE OF SAID SOUTHWEST $\frac{1}{4}$ A
DISTANCE OF 2644.71 FEET TO THE POINT OF BEGINNING.